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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,037	08/16/2006	Kenichi Suzuki	018842.1505	9410
24735 7590 08/04/2009 BAKER BOTTS LLP C/O INTELLECTUAL PROPERTY DEPARTMENT THE WARNER, SUITE 1300 1299 PENNSYLVANIA AVE, NW WASHINGTON, DC 20004-2400				
EXAMINER				
JIANG, CHEN WEN				
ART UNIT		PAPER NUMBER		
3744				
NOTIFICATION DATE		DELIVERY MODE		
08/04/2009		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptocorrespondence@bakerbotts.com  
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### Office Action Summary

**Application No.**

10/598,037

**Applicant(s)**

SUZUKI, KENICHI

**Examiner**

Chen-Wen Jiang

**Art Unit**

3744

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☒ Claim(s) 7 and 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date 20061121

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_



**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 4 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claims 4 and 5 recites the broad recitation "in spite of said additional condition", and the claim also recites "an additional condition is satisfied" which is the narrower statement of the range/limitation.
4. The following rejections are based on the best understanding of the claimed limitations.



***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claim 1 is rejected under 35 U.S.C. 102(a) as being anticipated by Suzuki et al. (JP 2003291633).

Suzuki et al. disclose a vehicle air conditioner system as shown in Fig.1. The system comprises a first compression mechanism having fixed speed 5, a second compression mechanism having variable speed 3, evaporator exit air temperature sensor 41, a drive source change control means of the compressor, an electric-motor control means, a cooler for a refrigerating cycle, a number-of-rotations detection means for the motor for vehicles, and a target number-of-rotations calculation means for the electric motor. It provides changes from the state where the compressor is not driven to the simultaneous drive, from the independent drive to the simultaneous drive, or from the simultaneous drive to the independent drive. The controller includes a target evaporator Toff1 and the target evaporator temperature plus a predetermined value Toff2, therefore,  $A = \text{Toff2} - \text{Toff1}$ . Referring to Fig.9, evaporator exit air temperature is controlled, when the evaporator exit air temperature exceeds temperature  $\text{Toff1} + A$  then the second compression drive is inputted. The second compression drive is stopped when the evaporator exit air temperature less than the evaporator target temperature Toff1.



***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
8. Claims 2, 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al. (JP 2003291633) in view of Rentmeester et al. (U.S. Patent Number 5,027,608).

In regard to claim 2, Suzuki et al. discloses the invention substantially as claimed. However, Suzuki et al. does not disclose satisfied condition is longer than a predetermined time. Rentmeester et al. discloses criteria can be an integrated time or longer than a predetermined time (col.10, lines 18-28 and Fig.4) in the same field of endeavor for the purpose of changing operation status. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Suzuki et al. with a longer than a predetermined time criteria in view of Rentmeester et al. so as to determine the operation status.

In regard to claim 4,  $Teva-Toff \geq A$  is automatically satisfied when  $Teva-Toff \geq D$  since D is greater than A.



In regard to claim 6, Suzuki discloses only operating the first compression mechanism (third section of Fig.9) when the temperature is lower than the predetermined value  $T_{off1}$  and Rentmeester discloses the additional time requirement when determining the switch the operation status.

9. Claims 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki/ Rentmeester as applied to claims 1 and 2 above, and further in view of Toki (JP 2002234337).

In regard to claim 3, Suzuki/Rentmeester discloses the invention substantially as claimed. However, Suzuki/ Rentmeester does not disclose room temperature requirement. Toki discloses room temperature requirement can be added in addition to another condition in the same field of endeavor for the purpose of controlling compression systems. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Suzuki/ Rentmeester with additional room temperature requirement in view of Toki so as to have an alternative control option.

In regard to claim 5,  $T_{in} - T_{set} \geq C$  is automatically satisfied when  $T_{in} - T_{set} \geq E$  since E is greater than C.

***Allowable Subject Matter***

10. Claims 7 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chen-Wen Jiang whose telephone number is (571) 272-4809. The examiner can normally be reached on Monday-Thursday from 8:00 to 6:30.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chen-Wen Jiang/  
Primary Examiner, Art Unit 3744